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C O N F I D E N T I A L SECTION 01 OF 02 HONG KONG 001957

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DEPARTMENT FOR EAP AND EAP/CM
NSC FOR DENNIS WILDER

E.O. 12958: DECL: 05/11/2031

TAGS: [PGOV](#) [PREL](#) [CH](#) [HK](#)

SUBJECT: HONG KONG LEGCO PASSES MINIMAL ELECTION BILL

Classified By: E/P Section Chief Simon Schuchat; Reasons 1.4 (b, d)

11. (C) Summary: On May 10, the Hong Kong Legislative Council (Legco) passed legislation providing minimal, technical changes to election procedures for the 2007 Chief Executive (CE) election and the 2008 Legco election. The bill was passed with 31 votes in favor and 21 opposed, with one abstention. Of Legco's 25 pan-democrats, 21 voted against the bill, two moderate independents were absent, and two other independent democrats refused to attend the voting session. Passage of the bill was a foregone conclusion following the May 5 rejection by Legco President Rita Fan of two proposed amendments, on grounds they were irrelevant to the subject of the bill and inconsistent with Legco's Rules of Procedure. Various pan-democrat leaders, while not surprised by the outcome, observed that the Government had missed a "golden opportunity" to advance Hong Kong's democracy through local legislation; they said they now would focus their efforts on mobilization for their annual July 1 mass demonstration. Following the Legco vote, the Constitutional Affairs Bureau announced that election of the 800-member Election Committee (EC) would take place on December 10, 2006 and the CE election would be held on March 25, 2007. Perhaps coincidentally, on May 10, Lu Xinhua, the PRC Foreign Ministry's Commissioner in Hong Kong, publicly praised CE Tsang, saying that "I support him serving for five more years." End Summary.

12. (SBU) On May 10, the Hong Kong Legco passed the "Chief Executive Election and Legislative Council Election (Miscellaneous Amendments) Bill 2006" by a margin of 31 in favor and 21 opposed, with one abstention. Of Legco's 25 pan-democrats, 21 - including all ten Democratic Party (DP) and eight Civic Party (CP) members -- voted against the bill, while two moderate independents (Lau Chin-shek and Joseph Lee) were absent. Radical democrat Leung Kwok-hung ("Longhair") and independent Albert Cheng strongly criticized the legislation during the Legco debate and refused to attend the final voting session.

13. (C) Three features of the legislation were particularly significant. First, contrary to the past two CE elections in 2002 and 2005, if only one candidate is validly nominated (i.e., receives at least one hundred nominations from the 800 members of the EC), the election process nevertheless will continue, essentially providing a "vote of confidence" to the winner. In the past two elections, when only one candidate - C.H. Tung in 2002 and Donald Tsang in 2005 - exceeded the 100-vote threshold, the process was halted and that candidate was declared the victor. Now, a fresh election will be held if the sole candidate fails to receive more than half of the valid EC votes. This reform, which copies a system already in use in Macau, had been advocated as early as the uncontested election of C.H. Tung to his second term in 2002.

A second provision of the new legislation stipulates that if the CE office becomes vacant within six months of a scheduled election, then a special by-election will not be called. Third, a new CE elected in a by-election may only serve one more term after completion of the remainder of the current term. These two provisions were intended, after the fact, to clarify the circumstances of the current CE's accession to office after Tung's resignation.

Amendments Rejected

14. (SBU) Passage of the bill was a foregone conclusion following the May 5 rejection by Legco President Rita Fan of two proposed amendments, on grounds they were irrelevant to the subject of the bill and inconsistent with Legco's Rules of Procedure. One amendment, offered jointly by Liberal Party (LP) Chairman James Tien and DP lawmaker Yeung Sum, would have permitted an elected CE to retain affiliation with a political party. The other amendment, offered by Yeung alone, would have placed a cap on the number of nominations a candidate for CE could receive, presumably ensuring that multiple candidates could contest the election. Yeung told the press he was disappointed with Fan's ruling, which he believed blocked any "democratic expansion," but he nevertheless respected the President's decision. Similarly, Tien said he felt "disappointed and helpless," but his party would accept and respect the determination. Tien added that the LP would study the possibility of proposing similar amendments to allow election of a politically affiliated candidate in the 2012 CE election.

Democrats Critical, Waiting for July 1

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15. (C) Leaders of the pro-democracy camp, while not surprised by the outcome, still reacted critically to passage of the legislation. In general, they observed that the Government had missed a "golden opportunity" to advance Hong Kong's democracy through local legislation; more fundamental changes for the 2007 CE and 2008 Legco elections were excluded by Legco's rejection of the Government's constitutional reform proposals last December. The pan-democrats also believed that the new law would not necessarily enhance the CE's legitimacy or popular mandate. On May 11, pan-democratic legislator Lee Cheuk-yan of the Hong Kong Confederation of Trade Unions told poloff that the new bill was "very, very technical and minimal," especially after the two amendments had been ruled out by Rita Fan. He said the democrats now would focus their efforts on mobilizing their supporters for a large-scale demonstration on July 1 against the lack of progress toward universal suffrage.

16. (C) On May 11, CP member and City University Professor Joseph Cheng told poloff that while the democrats had not held any "high expectations" for the election legislation, they nevertheless were disappointed that the final version included "almost no concessions at all" to their concerns. Cheng believes CE Donald Tsang was "constrained" by the central government's refusal to offer any more concessions as punishment to the democrats for their blockage of the Government's election reform proposals last December. Cheng said Beijing had "instructed" Tsang to "make a clear distinction between his friends and his enemies" and that Tsang therefore wanted to consolidate his alliance with the

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Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), which supported the Legco bill.

Government and DAB Criticize Democrats

17. (SBU) Not surprisingly, both the Government and the DAB

expressed approval for the Legco vote. Secretary for Constitutional Affairs Stephen Lam told the press that the measure enjoyed "broad public support" in Hong Kong, and that he hoped the opposition would be more sensitive to mainstream views. DAB legislator Tam Yiu-chung criticized the "hypocrisy" of the democrats, who strongly denounced the new legislation while preparing themselves to participate in the EC and CE elections. Perhaps coincidentally, on May 10, Lu Xinhua, the PRC Foreign Ministry's Commissioner in Hong Kong, publicly praised CE Tsang, saying that "I support him serving for five more years."

18. (SBU) Following the Legco vote, the Government announced that the new legislation would take effect with its publication on May 13. Also, the Constitutional Affairs Bureau announced that the election of the 800-member EC would take place on December 10, 2006 (septel) and the CE election would be held on March 25, 2007.
Cunningham